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P. 015/017

Attorney Docket No.: 10.0815

AUG 08 2006

Express Mail No.: EV 907434902 US
PATENTREMARKS

This Amendment and Response to Non-Final Office Action is being submitted in response to the non-final Office Action mailed June 2, 2006. Claims 1-14, 16-20, 22-28, 30, and 32-35 are pending in the Application.

Claims 1-14, 16-20, 22-28, 30, and 32-35 are allowed.

The Specification is objected to as the Brief Summary of the Invention and the descriptive matter are not confined only to the defined invention as claimed per 37 CFR 1.71 and 1.73, and MPEP 1302.01.

The specification is also objected to as the "Related Applications" section of the Specification must be labeled and updated.

In response to these objections, the "Related Applications" section of the Specification has been labeled and updated, as suggested by Examiner, and the following remarks are offered with regard to the scope of the Brief Summary of the Invention and the descriptive matter. These amendments are fully supported in the Specification, Drawings, and Claims of the Application and no new matter has been added.

As discussed briefly with Examiner on the telephone on August 1, 2006, Applicants respectfully submit that no requirement in the CFR or MPEP requires, or should require, that the scope of the Brief Summary of the Invention and the descriptive matter be confined only to the defined invention as claimed in the case of an omnibus specification including multiple claims of priority. In fact, such a requirement would jeopardize the multiple claims of priority related to the omnibus specification, as in the present case.

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This issue has been addressed by the court. In *In re de Deversky*, 474 F.2d 671; 1973 CCPA LEXIS 411; 177 U.S.P.Q. (BNA) 144, the court indicated that, with respect to related applications and claims of priority, a failure to continue subject matter from application to application "breaks the chain" of the applications for priority purposes under 35 U.S.C. 120. Further, the court indicated that if an incorporation by reference statement is lacking in an application (as in the present case), even those references cited in a "related applications" section, although related, are not incorporated by reference. Because the present Application lacks an incorporation by reference statement, one cannot now be added without being construed as new matter. Thus, the contents of the omnibus specification must be left in tact or Applicants' patent protection will be compromised. Even if an incorporation by reference statement could now be added, this would require a subsequent reviewer of the application to access multiple documents in order to review the full contents of the present Application, as opposed to the current one document.

Based upon the above amendments and remarks, reconsideration of the Application is respectfully requested.

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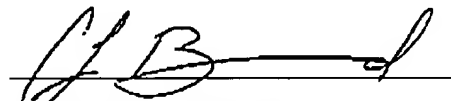
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CONCLUSION

Applicants would like to thank Examiner for the attention and consideration accorded the present Application. Should Examiner determine that any further action is necessary to place the Application in condition for allowance, Examiner is encouraged to contact undersigned Counsel at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional claims, extensions of time, or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, Examiner is encouraged to notify undersigned Counsel at Examiner's earliest convenience.

Respectfully submitted,

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